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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,112	12/17/2001	Manfred Hauers	SWR-0071	3471

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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT PAPER NUMBER

1761

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,112

Applicant(s)

HAUERS ET AL.

Examiner

Steven L. Weinstein

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2001.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-8 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2 and 5-8 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/27/02
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Restriction to one of the following inventions is required under 35USC 121:

Group I, claims 1 and 5, drawn to a tea bag classified in class 426, subclass 83.

Group II, claim 2, drawn to a label classifiable in class 40.

Group III, claims 6-8, drawn to a method for attaching a label to a tea bag, classifiable in class 53.

The inventions are distinct each from the other because, the bag of Group I and label of Group II can be made by methods other than that recited. For example, the free end could be pulled through the label and then looped on the opposite side of the label. Also, the label of Group II could be used in association with articles other than tea bags. For example, it could be attached to other bags such as rice bags or it could be attached to non-edible containing articles in either bag form or non-bag form such as any article that would require a label.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art requiring separate searches as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

To expedite prosecution, an action on the merits follows.

Claims 1, 2, and 5-8 are rejected under 35 USC 112, first paragraph. As disclosed, the label has two slits that extend from an edge of the label and extend into the label, and the loop which is made up of the thread has a portion of the thread of the loop in one of the slit and another portion of the thread of the loop in the other slit and the first end of the thread

comprising a free end remains on the first side of the label. This concept should be added to the claims since it is presumably the ability to pull the free end that tightens the loop around the portion of the label demarcated by the slits which secures the thread to the label. In claim 2, the claim appears to imply the free end of the thread is pulled through the label. However, as disclosed, only the loop is pulled through the label, not the free end.

Claims 1, 2, and 5-8 are rejected under 35 USC 112, second paragraph for being indefinite. The preambles of the claims do not appear to be consistent with the body of the claims so that it is not clear what is being positively recited and what is applicants intent. For example, claim 1 recites an infusion bag in the preamble but not in the body of the claim. Claim 2 recites a label in the preamble, but appears to refer to an infusion bag attached to a thread. Claim 6 recites in the preamble a method of attaching a label to an infusion bag but does not recite the bag in the body of the claim.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doble (1,726,060) and Doble (1,857,625) further in view of Fant (3,692,536).

Doble ('060), as further evidenced by Doble ('625) discloses a tea bag and method of attaching a label to the tea bag wherein a loop of a thread is passed through the label such that the loop extends from one side of the label to the opposite side and can be tightened to secure the label to the thread. Although not clearly stated, the claims differ from the two Doble references

Art Unit: 1761

in that the thread of the loop that passes from one side of the label to the other passes through slits rather than around the edge of the label. As evidence by Fant, it is well established to secure a thread and a label by passing the thread from one side of the label to the opposite side by employing slits (e.g. Fig. 5 and Fig. 1). To modify Doble ('060) as further evidenced by Doble ('625) and provide the label with slits for its art recognized and applicants intended function is seen to have been obvious.


The remainder of the references cited on the USPTO 892 form are cited as pertinent art.

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is (571) 272-1410. The examiner can generally be reached on Monday-Friday 7:00am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (571) 272-1201.

S. Weinstein/af
March 19, 2004


STEVE WEINSTEIN
PRIMARY EXAMINER 1761
3/23/04